

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF WEST VIRGINIA

STEVEN BUCKLEW,

Plaintiff,

v.

CIVIL ACTION NO. 1:10CV197
(Judge Keeley)

MICHAEL J. ASTRUE,¹ COMMISSIONER
OF SOCIAL SECURITY ADMINISTRATION,

Defendant.

ORDER ADOPTING MAGISTRATE JUDGE'S
REPORT AND RECOMMENDATION

Pursuant to 28 U.S.C. §636(b)(1)(B), Fed. R. Civ. P. 72(b) and Local Court Rule 4.01(d), on November 22, 2010, the Court referred this Social Security action to United States Magistrate Judge John S. Kaull with directions to submit proposed findings of fact and a recommendation for disposition.

On April 18, 2011, Magistrate Judge Kaull ordered the plaintiff to show cause on or before May 2, 2011 for his failure to timely file his Motion for Summary Judgment and Memorandum in

¹ Michael J. Astrue became the Commissioner of Social Security, effective February 12, 2007. Under Fed.R.Civ.P. 25(d)(1) and 42 U.S.C. § 405(g), Michael J. Astrue is automatically substituted as the defendant in this action.

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Support in compliance with Local Court Rule 9.02(c). As of this date, Bucklew has failed to respond to the show cause order.

On May 19, 2011, Magistrate Judge Kaull filed his Report and Recommendation ("R&R") recommending that this civil action be dismissed with prejudice for failure to prosecute and directed the parties, in accordance with 28 U.S.C. §636(b)(1) and Fed. R. Civ. P. 6(e), to file written objections, if any, with the Clerk of Court within fourteen (14) days after being served with a copy of the R&R. He further directed the parties that failure to file objections would result in a waiver of the right to appeal from the judgment of this Court. The parties did not file any objections.

Upon consideration of Magistrate Judge Kaull's recommendation and having received no written objections,² the Court accepts the R&R and ORDERS that Magistrate Judge Kaull's R&R is accepted in whole and this civil action is **DISMISSED WITH PREJUDICE** for failure to prosecute and **RETIRED** from the docket of this Court.

² Buckley's failure to object to the Report and Recommendation not only waives his appellate rights in this matter, but also relieves the Court of any obligation to conduct a *de novo* review of the issues presented. See Wells v. Shriners Hospital, 109 F.3d 198, 199-200 (4th Cir. 1997); Thomas v. Arn, 474 U.S. 140, 148-153 (1985).

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Pursuant to Fed.R.Civ.P. 58, the Court directs the Clerk of Court to enter a separate judgment order and to transmit copies of this Order to counsel of record.

DATED: June 8, 2011.

/s/ Irene M. Keeley

IRENE M. KEELEY

UNITED STATES DISTRICT JUDGE